

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3
4 ROSEMARY VANDECAR,
5 Petitioner,
6 v.
7 JERRY HOWELL, et al.,
8 Respondents.

Case No. 2:21-cv-01714-RFB-BNW

ORDER

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11 This action is a petition for writ of habeas corpus by Rosemary Vandecar, an
12 individual incarcerated at Nevada's Florence McClure Women's Correctional Center.
13 The Court received Vandecar's habeas petition (ECF No. 1-1), along with a
14 motion for appointment of counsel (ECF No. 1-2), on September 16, 2021. On
15 September 17, 2021, the Court received from Vandecar an application to proceed in
16 forma pauperis (ECF No. 3). In an order entered on October 26, 2021 (ECF No. 4), the
17 Court denied Vandecar's application to proceed in forma pauperis and ordered her to
18 pay the filing fee. Vandecar paid the filing fee on November 30, 2021 (ECF No. 5).

19 The Court has now examined Vandecar's habeas petition pursuant to Rule 4 of
20 the Rules Governing Section 2254 Cases. The Court will order the petition served on
21 the respondents.

22 Vandecar filed, with her habeas petition, a motion for appointment of counsel
23 (ECF No. 1-2). "Indigent state prisoners applying for habeas corpus relief are not
24 entitled to appointed counsel unless the circumstances of a particular case indicate that
25 appointed counsel is necessary to prevent due process violations." *Chaney v. Lewis*,
26 801 F.2d 1191, 1196 (9th Cir. 1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir.
27 1970) (per curiam)). The court may, however, appoint counsel "if the interests of justice
28 so require." See 18 U.S.C. § 3006A; see also Rule 8(c), Rules Governing § 2254

1 Cases; *Chaney*, 801 F.2d at 1196. The Court determines that, in the interests of justice,
2 appointment of counsel is warranted in this case.

3 **IT IS THEREFORE ORDERED** that the Clerk of the Court is directed to separately
4 file the petition for writ of habeas corpus (ECF No. 1-1) and the motion for appointment
5 of counsel (ECF No. 1-2).

6 **IT IS FURTHER ORDERED** that Petitioner's Motion for Appointment of Counsel
7 (ECF No. 1-2) is **GRANTED**. The Federal Public Defender for the District of Nevada
8 (FPD) is appointed to represent the petitioner. If the FPD is unable to represent the
9 petitioner due to a conflict of interest or other reason, then alternate counsel will be
10 appointed. In either case, counsel will represent the petitioner in all federal-court
11 proceedings relating to this matter, unless allowed to withdraw.

12 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to
13 electronically serve upon the FPD a copy of this order, together with a copy of the
14 petition for writ of habeas corpus (ECF No. 1-1).

15 **IT IS FURTHER ORDERED** that the FPD will have 30 days from the date of this
16 order to file a notice of appearance, or to indicate to the Court its inability to represent
17 the petitioner in this case.

18 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to add Aaron
19 Ford, Attorney General of the State of Nevada, as counsel for Respondents and to
20 provide Respondents an electronic copy of all items previously filed in this case by
21 regenerating the Notice of Electronic Filing to the office of the Attorney General only.

22 **IT IS FURTHER ORDERED** that the respondents will have 30 days from the date
23 of this order to appear in this action. Respondents will not be required to respond to the
24 habeas petition at this time.

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IT IS FURTHER ORDERED that the Court will establish a schedule for further proceedings in this action after counsel appear for the petitioner and the respondents.

DATED THIS 3rd day of August 2022.


RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE